

Historic, Archive Document

Do not assume content reflects current scientific knowledge, policies, or practices.

UNITED STATES DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

SERVICE AND REGULATORY ANNOUNCEMENTS NO. 127, REVISED¹

REGULATIONS FOR WAREHOUSEMEN STORING GRAIN, AS AMENDED

Issued by the Secretary of Agriculture under the United States Warehouse Act
of August 11, 1916, as Amended

(Title 7, Ch. I, Pt. 102 of the Code of Federal Regulations)

CONTENTS

	Page	Page	
Definitions	2	Duties of warehouseman—Continued	
Sec.	102.47	Warehouses to be kept clean.....	11
102.1 Meaning of words.....	102.48	Delivery of fungible grain.....	11
102.2 Terms defined.....	102.49	Cleaning of grain.....	12
Warehouse licenses	3	102.50 Grades; separate in storage.....	12
102.3 Application form.....	102.51 Stocks to be in balance by grades.....	12	
102.3a All facilities to be licensed or exempted.....	102.52 Out-of-condition and damaged grain.....	12	
102.4 Scales; bin numbers.....	102.53 Reconditioning grain.....	12	
102.5 Signs of tenancy; posting.....	102.54 Notice of condition of grain.....	12	
102.6 Net assets.....	102.55 Sale of grain at public auction.....	13	
102.7 Grounds for not issuing license.....	102.56 Identity-preserved grain; acceptance.....	13	
102.8 Posting of license.....	Fees.....	13	
102.9 Warehouse license; suspension; revocation.....	102.57 Warehouse license fees.....	13	
102.10 Return of suspended or revoked license.....	102.58 Warehouse inspection fee.....	13	
102.11 Lost or destroyed warehouse license.....	102.59 Advance deposit.....	13	
102.12 Unlicensed warehousemen must not represent themselves as licensed.....	102.60 Return of excess deposit.....	14	
Warehouse bonds	5	Inspectors and weighers	
102.13 Time of filing.....	102.61 Inspectors and weighers' applications.....	14	
102.14 Basis of amount of bond; additional amounts.....	102.62 Examination.....	14	
102.15 Amendment to license.....	102.63 Posting of license.....	14	
102.16 New bond required each year.....	102.64 Duties of Inspector and weigher.....	14	
102.17 Approval of bond.....	102.65 Inspection certificate; form.....	14	
Warehouse receipts	6	102.66 Copies of certificate to be accessible.....	15
102.18 Form.....	102.67 Weight certificate.....	15	
102.19 Grain must be inspected and weighed.....	102.68 Certificate; grade and weight.....	15	
102.20 Copies of receipts.....	102.69 Copies of certificates to be kept.....	15	
102.21 Lost or destroyed receipts; bond.....	102.70 Inspections.....	15	
102.22 Printing of receipts.....	102.71 Reports.....	15	
102.23 Partial delivery of grain.....	102.72 Licenses; suspension or revocation.....	15	
102.24 Return of receipts before delivery of grain.....	102.73 Suspended or revoked license; termination of license.....	16	
102.25 Nonnegotiable receipts.....	102.74 Lost or destroyed licenses.....	16	
102.26 Omission of grade; no compulsion by warehouseman.....	102.75 Unlicensed inspectors and weighers.....	16	
102.27 Loading out without weighing.....	Grain grading.....	16	
102.28 Persons authorized to sign receipts.....	102.76 Grade; statement.....	16	
102.29 Receipts; basis for issuance.....	102.77 Official grain standards of the United States.....	16	
102.30 Receipts for stored grain.....	102.78 Standards of grades for other grain.....	16	
102.31 No receipts for screenings.....	102.79 Grades based on inspection and sample.....	16	
102.32 Canceled receipts; auditing.....	Grain appeals.....		
Duties of warehouseman	102.80 Appeal procedure.....	16	
102.33 Insurance; requirements.....	102.81 Complaint.....	17	
102.34 Records; safekeeping.....	102.82 Contents of complaint.....	17	
102.35 Warehouse charges.....	102.83 Proof of agent's authority.....	17	
102.36 Business hours.....	102.84 Certificate of inspection and receipts.....	17	
102.37 System of accounts.....	102.85 Filing complaint; extension.....	17	
102.38 Reports required.....	102.86 Determination of appeals; samples.....	17	
102.39 Inspections; examination of warehouse.....	102.87 Samples required.....	17	
102.40 Care of grain in licensed warehouses.....	102.88 Representative samples.....	18	
102.41 Care of other grain and other commodities.....	102.89 Appeal; dismissal.....	18	
102.42 Excess storage.....	102.90 Grade certificate; issuance.....	18	
102.43 Removal of specially stored grain.....	102.91 Grain grade appeal fees.....	18	
102.44 Grades and weights; bulk grain.....	102.92 Advance deposit; fees; how paid.....	18	
102.45 Storage of identity-preserved grain.....	102.93 Disposition of samples.....	19	
102.46 Sacked grain.....	102.94 Appeal; not to be refused.....	19	
	102.95 Appeal; freedom.....	19	
	Miscellaneous.....	19	
	102.96 Bonds required; re State warehouses.....	19	
	102.97 Publications.....	19	
	102.98 Information of violations.....	19	

Footnote on p. 2.

Page	Page		
Miscellaneous—Continued			
102.99 Procedure in hearings.....	19	Terminal and futures contract markets—Con.	
102.100 One document and one license to cover several products.....	20	102.106 Licenses to State and other employees.....	20
102.101 Assets and bond; combination warehouses.....	20	102.107 License to chief sampler or deputy.....	20
102.102 Amendments.....	20	102.108 Additional bonding required.....	20
Terminal and futures contract markets.....	20	102.109 Examination of warehouses; board of trade interest.....	21
102.103 Futures contract markets defined.....	20	102.110 Registration of public warehouse receipts; protection.....	21
102.104 Licenses to weigh grain; futures markets.....	20	102.111 Terminal markets.....	22
102.105 Registrar of warehouse receipts; futures contract market.....	20	United States Warehouse Act.....	22

¹ This announcement was published as Service and Regulatory Announcements No. 127 of the Production and Marketing Administration, in November 1947. The administration of these regulations is now a function of Agricultural Marketing Service.

By virtue of the authority vested in the Secretary of Agriculture by the United States Warehouse Act, approved August 11, 1916 (39 U. S. Stat. L., pp. 446, 486), as amended, I, Arthur M. Hyde, Secretary of Agriculture, do make, prescribe, publish, and give public notice of the following rules and regulations, to be known as the regulations for grain warehousemen, and to be in force and effect until amended or superseded by rules and regulations hereafter made by the Secretary of Agriculture. These rules and regulations shall supersede all rules and regulations issued under said act heretofore for grain warehousemen.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington this 9th day of May 1931.

ARTHUR M. HYDE,
Secretary of Agriculture.



DEFINITIONS

102.1 Meaning of words.—Words used in these regulations in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

102.2 Terms defined.—For the purpose of these regulations, unless the context otherwise require, the following terms shall be construed, respectively, to mean:

(a) *The act.*—The United States Warehouse Act, approved August 11, 1916 (39 Stat. 486; 7 U. S. C. 241-273), as amended.

(b) *Person.*—An individual, corporation, partnership, or two or more persons having a joint or common interest.

(c) *Department.*—The United States Department of Agriculture.

(d) *Secretary.*—“Secretary” means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(e) *Designated representative.*—The Administrator.

(f) *Administrator.*—The Administrator of the Service, or any other officer or employee of the Service to whom authority has heretofore lawfully been delegated, or may hereafter lawfully be delegated, to act in his stead.

(g) *Service.*—The Agricultural Marketing Service of the Department.

(h) *Regulations.*—Rules and regulations made under the act by the Secretary.

(i) *Dockage.*—Dockage in grain as defined by the official grain standards of the United States.

(j) *Grain.*—All products commonly classed as grain, such as wheat, corn, oats, barley, rye, flaxseed, rough, brown, and milled rice, sunflower seeds, field peas, soybeans, emmer, grain sorghums, and such other products as are ordinarily stored in grain warehouses, subject to the disapproval of the Administrator.

(k) *Nonstorage grain.*—Grain received temporarily into a warehouse for conditioning, transferring, assembling for shipment, or lots of grain moving through

a warehouse for current merchandising or milling use, against which no receipts are issued and no storage charges assessed, provided that merchandising or milling stocks held in storage as reserve stocks, or stored for use at an indefinite future date, may not be treated as nonstorage grain.

(l) *Warehouse*.—Unless the context otherwise clearly indicates, any building, structure, or other protected inclosure licensed or to be licensed under the act, in which grain is or may be stored for interstate or foreign commerce, or, if located within any place under the exclusive jurisdiction of the United States in which grain is or may be stored.

(m) *Bin*.—A bin, tank, interstice, or other container in a warehouse in which bulk grain may be stored.

(n) *Warehouseman*.—Any person lawfully engaged in the business of storing grain, who holds an effective warehouseman's license under the act, or who has applied for such a license.

(o) *License*.—A license issued under the act by the Secretary, or his designated representative.

(p) *Warehouseman's bond*.—The bond required by the act to be given by a warehouseman.

(q) *Inspector*.—A person licensed under the act by the Secretary, or his designated representative, to inspect and grade and/or certificate the grade of grain stored or to be stored in a warehouse licensed under the act.

(r) *Weigher*.—A person licensed under the act by the Secretary, or his designated representative, to weigh and/or certificate the weight of grain stored or to be stored in a warehouse licensed under the act.

(s) *Grain standards act*.—The United States grain standards act, approved August 11, 1916 (39 Stat. 482; 7 U. S. C. 71-87), as amended.

(t) *Official grain standards of the United States*.—The standards of quality or condition for grain, fixed and established by the Secretary under the grain standards act.

(u) *Receipt*.—A licensed warehouse receipt issued under the act.

WAREHOUSE LICENSES

102.3 Application form.—Applications for licenses and for amendments of licenses under the act shall be made to the Secretary upon prescribed forms furnished by the Service, shall be in English, shall truly state the information therein contained, and shall be signed by the applicant. The applicant shall at any time furnish such additional information as the Secretary, or his designated representative, shall find to be necessary to the consideration of his application.

102.3a All facilities to be licensed or exempted.—All facilities within the same city or town used for the storage of grain by an applicant for a warehouse license must qualify for a license and be licensed under the act if the applicant is to be licensed to operate as a grain warehouseman in such city or town, unless the facilities which are not to be covered by a license are exempted by the Secretary or his designated representative upon a finding that, due to the exercise of adequate controls by some independent agency over the operation of the nonfederally licensed facilities, there would be no likelihood of interchange, substitution, or commingling of grain stored in such facilities with grain stored in the federally licensed facilities. If all such facilities do not qualify for a license or for an exemption under this section, the applicant shall not be licensed under the act as a grain warehouseman in the city or town in which the facilities in question are located. Each applicant for a grain warehouse license must apply for a license covering all facilities operated by him for the storage of grain within the same city or town or for exemption as provided in this section. If a licensed grain warehouseman acquires any additional grain storage facilities within the same city or town in which his licensed warehouse is located, he shall file promptly an application for a license or an exemption of the additional facilities. No grain storage facility acquired by a licensed grain warehouseman, subsequent to the issuance of his license, in the same city or town as his licensed facilities, shall be used for the storage of grain until it qualifies for license and is licensed or is exempted as provided in this section. If any one of the licensed grain storage facilities operated by a warehouseman in the same city or town becomes ineligible for a license at any time for any reason, it shall not thereafter be used for the storage of grain until the condition making it ineligible is removed or an exemption is granted as provided in this section. The use for the storage of

grain by a licensed warehouseman of a facility which is in the same city or town as his licensed facilities and is neither licensed nor exempted, or other violation of the provisions of this section, shall be cause for suspension or revocation of any license issued to the warehouseman for the storage of grain.

102.4 Scales; bin numbers.—(a) Each warehouse must be equipped with suitable scales in good order, and so arranged that all grain, whether for storage or for nonstorage purposes, can be weighed in and out of the warehouse. The scales in any warehouse shall be subject to examination by representatives of the Department and to disapproval by the Administrator. If he disapproves any weighing apparatus, it shall not thereafter be used in ascertaining the weight of grain for the purposes of this act, until such disapproval be withdrawn.

(b) Both bulk grain bins and compartments for sacked grain of all warehouses licensed under the act shall be identified by means of clearly discernible numbers securely affixed thereto. The series of numbers to be used shall be approved by the service. Bulk grain bins shall be numbered so as to be easily identified at the openings on top and also on or near the outlet valves underneath. Compartments shall be numbered in such a manner as to clearly show the space covered by each number.

102.5 Signs of tenancy; posting.—(a) Every warehouseman operating a "field" or "custodian" warehouse shall, during the life of his license, display and maintain appropriate signs on the licensed warehouse, both on the inside and on the exterior walls of the warehouse, and particularly on doors and usual places of entry, in such a manner as will ordinarily be calculated to give the public correct notice of his tenancy of all buildings or parts thereof included in his license.

(b) Such signs shall be of such size and design as to readily attract the attention of the public and shall include the following: (1) The name and license number of the licensee, (2) the name of the warehouse, (3) whether the warehouseman is owner or lessee, and (4) the words "public warehouse."

(c) Such other wording or lettering may appear in the sign or signs not inconsistent with the purpose of the act and these regulations as may be approved by the Administrator.

(d) Immediately upon its expiration or suspension or revocation all reference to the license shall be removed from the warehouse.

(e) No sign indicating control, tenancy, or ownership of a licensed warehouse by any person other than the licensee shall appear on any such warehouse.

102.6 Net Assets.—(a) Each warehouseman conducting a warehouse licensed, or for which application for a license has been made, under these regulations, shall have and maintain above all exemptions and liabilities, total net assets liable for the payment of any indebtedness arising from the conduct of the warehouse equal to at least 4 percent of the total value of the maximum number of bushels of wheat that the warehouse could accommodate when stored in the manner customary to the warehouse, as determined by the Administrator, calculated upon the basis of the unit price for wheat announced annually by the Administrator: *Provided*, That if the commodity normally stored or to be stored in the warehouse in greatest quantity over the period of a year has a unit price, as announced annually by the Administrator, higher than wheat, the maximum number of bushels and the unit price of such commodity shall be used in calculating the amount of net assets required: *Provided*, That no person may be licensed as a warehouseman under these regulations, unless he has a net worth of at least \$10,000.00; and *Provided further*, that any deficiency in the net assets required above the \$10,000.00 minimum may be supplied by an increase in the amount of the warehouseman's bond in accordance with paragraph (c) of section 102.14. In determining total net assets, credit may be given for insurable property such as buildings, machinery, equipment, and merchandise inventory, only to the extent that such property is protected by insurance against loss or damage by fire. Such insurance shall be in the form of lawful policies issued by one or more insurance companies authorized to do such business and subject to service of process in suits brought in the State in which the warehouse is located.

(b) In case a warehouseman is licensed or is applying for a license to operate two or more warehouses in the same State, under these regulations, and his total assets are subject to the liabilities of each warehouse, the maximum number of bushels which all such warehouses will accommodate when stored in the manner customary to the warehouses as determined by the Administrator, shall

be considered in determining whether the warehouseman meets the net assets requirements specified in paragraph (a) of this section.

(c) For the purposes of paragraphs (a) and (b) only, capital stock as such shall not be considered a liability.

(d) In case a State agency licensed or applying for a license as provided in section 9 of the act has funds of not less than \$500,000.00 guaranteeing the performance of obligations of the agency as a warehouseman, such funds shall be considered sufficient to meet the net asset requirements of this section.

102.7 Grounds for not issuing license.—A license for the conduct of a warehouse, or any amendment to a license, under these regulations, shall not be issued if it is found by the Secretary, or his designated representative, that the warehouse is not suitable for the proper storage of grain; that the warehouseman does not possess a good reputation, or does not have a net worth of at least \$10,000.00, or is incompetent to conduct such warehouse in accordance with the act and these regulations; or that there is any other sufficient reason within the intent of the act for not issuing such license. If all the facilities operated for the storage of grain by the applicant within the same city or town are not to be licensed under the act, the applicant shall not be licensed as a grain warehouseman with respect to any of such facilities, unless an exemption of the facilities which are not to be licensed is granted as provided in section 102.3a.

102.8 Posting of license.—Immediately upon receipt of his license or of any modification or extension thereof under the act, the warehouseman shall post same, and thereafter, except as otherwise provided in these regulations, keep it posted until suspended or terminated, in a conspicuous place in the principal office where receipts issued by such warehouseman are delivered to depositors.

102.9 Warehouse license; suspension; revocation.—Pending investigation, the Secretary, or his designated representative, whenever he deems necessary, may suspend a warehouseman's license temporarily without hearing. Upon written request and a satisfactory statement of reasons therefor, submitted by a warehouseman, the Secretary, or his designated representative, may, without hearing, suspend or revoke the license issued to such warehouseman. The Secretary, or his designated representative, may, after opportunity for hearing has been afforded in the manner prescribed in this section, suspend or revoke a license issued to a warehouseman when such warehouseman (a) does not have a net worth of at least \$10,000.00; (b) has parted, in whole or in part, with his control over the licensed warehouse; (c) is in process of dissolution or has been dissolved; (d) has ceased to operate such licensed warehouse; (e) has in any other manner become nonexistent or incompetent or incapacitated to conduct the business of the warehouse; (f) has made unreasonable or exorbitant charges for services rendered; (g) is operating in the same city or town in which his licensed warehouse facilities are located, any facility for storage of grain which is not covered by a license or an exemption as provided in section 102.3a; or (h) has in any other manner violated or failed to comply with any provision of the act or these regulations. Whenever any of the conditions mentioned in subdivisions (a) through (h) of this section shall come into existence, it shall be the duty of the warehouseman to notify the Administrator immediately of the existing condition. Before a license is revoked or suspended (other than temporarily pending investigation) for any violation of, or failure to comply with, any provision of the act or of these regulations, or upon the ground that unreasonable or exorbitant charges have been made for services rendered, the warehouseman involved shall be furnished by the Secretary, or his designated representative, a written statement, specifying the charges and shall be allowed a reasonable time within which he may answer the same in writing and apply for a hearing, an opportunity for which shall be afforded in accordance with section 102.99.

102.10 Return of suspended or revoked license.—In case a license issued to a warehouseman terminates or is suspended or revoked by the Secretary, or his designated representative, such license shall be immediately returned to the Secretary. At the expiration of any period of suspension of such license, unless it be in the meantime revoked, the dates of the beginning and termination of the suspension shall be indorsed thereon, it shall be returned to the warehouseman to whom it was originally issued and it shall be posted as prescribed in section 102.8: *Provided*, That in the discretion of the Secretary, or his designated representative, a new license may be issued without reference to the suspension.

102.11 Lost or destroyed warehouse license.—Upon satisfactory proof of the loss or destruction of a license issued to a warehouseman, a duplicate thereof, or a new license may be issued under the same number.

102.12 Unlicensed warehousemen must not represent themselves as licensed.—No warehouse or its warehouseman shall be designated as licensed under the act, and no name or description conveying the impression that it or he is so licensed shall be used, either in a receipt or otherwise, unless such warehouseman holds an unsuspended and unrevoked license for the conduct of such warehouse.

WAREHOUSE BONDS

102.13 Time of filing.—Unless the warehouseman has previously filed with the Secretary the necessary bond required by section 102.14, he shall file such bond within a time, if any, specified by the Secretary, or his designated representative, said bond to cover all obligations arising thereunder during the period of the license.

102.14 Amount of bond; additional amounts.—(a) The amount of bond to be furnished by each warehouseman under these regulations, shall be at least 6 percent of the total value of the maximum number of bushels of wheat that his warehouse could accommodate when stored in the manner customary to the warehouse as determined by the Administrator, calculated upon the basis of the unit price for wheat announced annually by the Administrator: *Provided*, That if the commodity normally stored or to be stored in the warehouse in greatest quantity over the period of a year has a unit price, as announced annually by the Administrator, higher than wheat, the maximum number of bushels and the unit price of such commodity shall be used in calculating the amount of bond required; and *Provided further*, That in any case the amount of bond shall not be less than \$5,000.00 nor more than \$200,000.00, except as prescribed in paragraph (c).

(b) In case a warehouseman has applied for licenses to operate two or more warehouses in the same State and his total assets are subject to the liabilities of each warehouse, he may if he desires give a single bond meeting the requirements of the act and these regulations to cover all his warehouses within the State. In such case all of his warehouses in the State shall be deemed to be one warehouse and the maximum number of bushels that all of said warehouses will accommodate when stored in the manner customary to each of such warehouses shall be considered for the purposes of determining the amount of bond required under sections 102.13 through 102.17.

(c) In case of a deficiency in net assets above the \$10,000.00 minimum, required under section 102.6, there shall be added to the amount of bond determined in accordance with paragraph (a) of this section an amount equal to such deficiency. In any other case in which the Secretary, or his designated representative, finds that conditions exist which warrant requiring additional bond, there shall be added to the amount of bond as determined under the other provisions of this section, a further amount to meet such conditions.

102.15 Amendment to license.—In case an application is made for an amendment to a license and no bond previously filed by the warehouseman under sections 102.13–102.17 covers obligations arising during the period covered by such amendment, the warehouseman shall, when notice has been given by the Secretary, or his designated representative, that his application for such amendment will be granted upon compliance by such warehouseman with the act, file with the Secretary, within a time, if any, fixed in such notice, a bond complying with the act. In the discretion of the Secretary, or his designated representative, a properly executed instrument in form approved by him, amending, extending, or continuing in force and effect the obligations of a valid bond previously filed by the warehouseman and otherwise complying with the act and these regulations, may be filed in lieu of a new bond.

102.16 New bond required each year.—A continuous form of license shall not remain in force for more than one year from its effective date, or any subsequent extension thereof, unless each year prior to the date on which the license would expire, the warehouseman files a bond in the required amount with the Secretary and such bond has been approved by him or his designated representative.

102.17 Approval of bond.—No bond, amendment, or continuation thereof shall be accepted for the purposes of the act and these regulations until it has been approved by the Secretary, or his designated representative.

WAREHOUSE RECEIPTS

102.18 Form.—(a) Every receipt, whether negotiable or nonnegotiable, issued for grain stored in a licensed warehouse shall, in addition to complying with the requirements of section 18 of the act, embody within its written or printed terms the following: (1) The name of the warehouseman and the designation, if any, of the warehouse, (2) a statement whether the warehouseman is incorporated or unincorporated, and if incorporated, under what laws, (3) in event the relationship existing between the warehouseman and any depositor is not that of strictly disinterested custodianship, a statement setting forth the actual relationship, (4) a statement conspicuously placed, whether or not the grain is insured, and, if insured, to what extent, by the warehouseman against loss by fire, lightning, tornado, or otherwise, (5) the net weight, including dockage, if any, of the grain, (6) in the case of grain the identity of which is to be preserved, its identification or location in accordance with section 102.45, (7) the words "Not Negotiable," or "Negotiable," according to the nature of the receipt, clearly and conspicuously printed or stamped thereon, and (8) that the holder of the receipt or the depositor of the grain shall demand the delivery of the grain not later than the expiration of one year from the date of the receipt.

(b) Every receipt, whether negotiable or nonnegotiable, issued for grain stored in a warehouse shall specify a period, not exceeding one year, for which the grain is accepted for storage under the Act and the regulations in this part. Upon demand for issuance of a new receipt, surrender of the old receipt by the lawful holder thereof at or before the expiration of the period specified therein and an offer to satisfy the warehouseman's lien, the warehouseman, upon such lawful terms and conditions as may be granted by him to other depositors of grain in his warehouse, shall, in the absence of some lawful excuse, issue a new receipt for a further specified period, not exceeding one year.

(c) Every negotiable receipt issued shall, in addition to conforming with the requirements of paragraph (a) of this section, embody within its written or printed terms, a form of indorsement which may be used by the depositor, or his authorized agent, for showing the ownership of, and liens, mortgages, or other encumbrances on the grain covered by the receipt.

(d) The grade stated in a receipt shall be stated in accordance with section 102.76, as determined by the inspector who last inspected and graded the grain before the issuance of such receipt, or if an appeal from the determinations of such inspector has been taken either under the grain standards act and regulations thereunder or under sections 102.81-102.95 of these regulations, the grade shall be stated on such receipt in accordance with the grade as finally determined in such appeal. If the final grade thus determined be different from that shown by the receipt issued for such grain, the warehouseman shall, upon the return of the old receipt, if the same is not already in his possession, issue a new receipt stating such final grade.

(e) If a warehouseman issues a receipt omitting the statement of grade on request of the depositor as permitted by section 18 of the act, such receipt shall have clearly and conspicuously stamped or written in the space provided for the statement of grade the words "Not graded on request of depositor."

(f) If a warehouseman issues a receipt under the act omitting any information not requested to be stated, for which a blank space is provided in the form of the receipt, a line shall be drawn through such space to show that such omission has been made purposely by the warehouseman.

102.19 Grain must be inspected and weighed.—(a) Except in case of identity-preserved grain, when the grading is omitted at request of depositor, no receipt shall be issued under the act or these regulations until the grain covered by such receipt has been inspected and graded by a person duly licensed to inspect and grade such grain and to certificate the grade thereof, and been weighed by a person duly licensed to weigh such grain and to certificate the weight thereof. The receipt issued to cover such grain shall show the grade, including percentage of dockage, if any, condition, and weight, in conformity therewith.

(b) When requested by the depositor of grain the identity of which is to be preserved, a receipt omitting statement of grade but not weight may be issued.

(c) All fungible nonstorage grain received into and delivered out of a warehouse must be correctly inspected, graded, and weighed by a licensed inspector and/or weigher.

102.20 Copies of receipts.—Any copies of receipts, except those issued in lieu of the original in case of lost or destroyed receipts, shall have clearly and conspicuously printed or stamped thereon the words "Copy—Not Negotiable." If exact copies are not made, skeleton copies bearing the same numbers as the corresponding original receipts bear, shall be made, but such skeleton copies need not be marked "Copy—Not Negotiable."

102.21 Lost or destroyed receipts; bond.—(a) In the case of a lost or destroyed receipt, if there be no statute of the United States or law of a State applicable thereto, a new receipt upon the same terms, subject to the same conditions, and bearing on its face the number and the date of the receipt in lieu of which it is issued and a plain and conspicuous statement that it is a duplicate receipt issued in lieu of a lost or destroyed receipt, may be issued upon compliance with the conditions set out in paragraph (b) of this section.

(b) Before issuing such new or duplicate receipt the warehouseman shall require the depositor or other person applying therefor to make and file with him (1) an affidavit showing that the applicant is lawfully entitled to the possession of the original receipt, that he has not negotiated or assigned it, how the original receipt was lost or destroyed, and if lost, that diligent effort has been made to find the receipt without success, and (2) a bond in an amount double the value, at the time the bond is given, of the grain represented by the lost or destroyed receipt. Such bond shall be in a form approved for the purpose by the Secretary, or his designated representative, shall be conditioned to indemnify the warehouseman against any loss sustained by reason of the issuance of such receipt, and shall have as surety thereon preferably a surety company which is authorized to do business, and is subject to service of process in a suit on the bond, in the State in which the warehouse is located, or at least two individuals who are residents of such State and each of whom owns real property therein having a value, in excess of all exemptions and encumbrances, equal to the amount of the bond.

102.22 Printing of receipts.—Receipts issued by a warehouseman shall be (a) in form prescribed by the Administrator, (b) printed by a printer with whom the United States has a subsisting contract and bond for such printing, and (c) on distinctive paper manufactured by and procured from a manufacturer with whom the United States has a subsisting contract and bond for the manufacture of such paper.

102.23 Partial delivery of grain.—If a warehouseman delivers a part only of a lot of grain for which he has issued a negotiable receipt under the act, he shall take up and cancel such receipt and issue a new receipt in accordance with these regulations for the undelivered portion of the grain. The new receipt shall show the date of issuance and also indicate the number and date of the receipt first issued.

102.24 Return of receipts before delivery of grain.—Except as permitted by law or by these regulations a warehouseman shall not deliver grain for which he has issued a negotiable receipt until the receipt has been returned to him and canceled, and shall not deliver grain for which he has issued a nonnegotiable receipt until such receipt has been returned to him or he has obtained from the person lawfully entitled to such delivery, or his authorized agent, a written order therefor. Before delivery is made of the last portion of a lot of grain covered by a nonnegotiable receipt, the receipt itself shall be surrendered.

102.25 Nonnegotiable receipts.—Each person to whom a nonnegotiable receipt is issued shall furnish the warehouseman with a statement in writing indicating the person or persons having power to authorize delivery of grain covered by such receipt, together with the bona fide signature of such person or persons. No licensed warehouseman shall honor an order for the release of grain covered by a nonnegotiable receipt until he has first ascertained that the person issuing the order has authority to order such release, and that the signature of the releasing party is genuine.

102.26 Omission of grade; no compulsion by warehouseman.—No warehouseman shall, directly or indirectly by any means whatsoever, compel or attempt to compel the depositor of any grain stored or offered for storage in his warehouse to request the issuance of a receipt omitting the statement of grade.

102.27 Loading out without weighing.—When the lawful holder of one or more receipts covering an entire lot of identity-preserved grain or a mass of grain stored in a single bin requests the warehouseman to deliver said lot or mass without reweighing said grain, the warehouseman may make such delivery if there is an accurate record of the weight of such grain when received. Such deliveries shall be made only when the lawful holder of the receipts agrees to assume all shortages and other risks incidental thereto, and after the warehouse receipts covering all of the grain in the container have been surrendered to the warehouseman and canceled. After the receipts covering such grain have been surrendered for cancellation no other grain shall be placed in the bin until the entire lot has been delivered.

102.28 Persons authorized to sign receipts.—Each warehouseman shall file with the Department the name and genuine signature of each person authorized to sign warehouse receipts for the warehouseman, and shall promptly notify the Department of any changes as to persons authorized to sign and shall file the signatures of such persons, and each warehouseman shall be bound by such signatures the same as if he had personally signed the receipt.

102.29 Receipts; basis for issuance.—Before issuing any receipt under the act each warehouseman shall, unless he personally weighed, inspected, and graded, if graded, a lot of grain, first obtain either a copy of or the original weight certificate, and inspection certificate, if any, covering said lot of grain, and said weight and grade certificates shall be filed as a permanent record in the warehouseman's office when the receipt is issued. The number of the warehouse receipt issued for the grain covered by such certificates shall be written on the certificate before filing.

102.30 Receipts for stored grain.—Receipts must be issued for all grain stored in a warehouse. Receipts need not be issued against nonstorage grain, but each warehouseman shall keep accurate records of the weights, kinds, and grades of all lots of nonstorage grain received into and delivered from his warehouse. Whenever the purpose for which any lot of nonstorage grain was received into a warehouse is changed so that its approximate delivery period from the warehouse becomes indeterminate, receipts shall be issued to cover such grain.

102.31 No receipts for screenings.—No receipt shall be issued for any product or byproduct which would fall under the term "screenings."

102.32 Canceled receipts; auditing.—Each warehouseman, if requested by the Service, shall forward his canceled receipts for auditing to such field offices of the Service as may be designated from time to time.

DUTIES OF WAREHOUSEMAN

102.33 Insurance; requirements.—(a) Each warehouseman, when so requested in writing as to any grain by the depositor thereof or lawful holder of the receipt covering such grain, shall, to the extent to which, in the exercise of due diligence, he is able to procure such insurance, keep such grain while in his custody as a warehouseman insured in his own name or arrange for its insurance otherwise to the extent so requested, against loss or damage by fire, lightning, and/or tornado. When insurance is not carried in the warehouseman's name, the receipts shall show that the grain is not insured by the warehouseman. Such insurance shall be covered by lawful policies issued by one or more insurance companies authorized to do such business, and subject to service of process in suits brought in the State where the warehouse is located. If the warehouseman is unable to procure such insurance to the extent requested, he shall, orally or by telegraph or by telephone immediately notify the person making the request of the fact. Nothing in this section shall be construed to prevent the warehouseman from adopting a rule that he will insure all grain stored in his warehouse.

(b) Each warehouseman shall comply fully with the terms of insurance policies or contracts covering his licensed warehouse and all products stored therein, and shall not commit any acts, nor permit his employees to do anything, which might impair or invalidate such insurance.

(c) Each warehouseman shall keep exposed conspicuously in the place prescribed by section 102.8, and at such other place as the Administrator or his representative may from time to time designate, a notice stating briefly the conditions under which the grain will be insured against loss or damage by fire, lightning, and tornado.

(d) Each warehouseman shall, in accordance with his contracts with insurance and bonding companies for the purpose of meeting the insurance and bonding requirements of these regulations, pay such premiums, permit such reasonable inspections and examinations, and make such reasonable reports as may be provided for in such contracts.

(e) Each warehouseman shall promptly take such steps as may be necessary and proper to collect any moneys which may become due under contracts of insurance entered into by him for the purpose of meeting the requirements of these regulations, and shall, as soon as collected, promptly pay to the persons concerned any portion of such moneys which they may be entitled to receive from him.

(f) If at any time a fire shall occur at or within any warehouse, it shall be the duty of the warehouseman to report immediately by wire to the Administrator the occurrence of such fire and the extent of damage.

102.34 Records; safekeeping.—Each warehouseman shall provide a fireproof safe, vault, or compartment in which he shall keep, when not in actual use, all records, books, and papers pertaining to the licensed warehouse, including his current receipt book, copies of issued and canceled receipts, except that with the written consent of the Service, upon a showing by such warehouseman that it is not practicable to provide such fireproof safe, vault, or compartment, he may keep such records, books, and papers in some other place of safety, approved by the Service. Each canceled receipt shall be retained by the warehouseman for a period of six years after December 31 of the year in which the receipt is canceled and for such longer period as may be necessary for the purposes of any litigation which the warehouseman knows to be pending, or as may be required by the Administrator in particular cases to carry out the purposes of the Act. Canceled receipts shall be arranged by the warehouseman in numerical order and otherwise in such manner as shall be directed, for purposes of audit, by authorized officers or agents of the Department of Agriculture.

102.35 Warehouse charges.—A warehouseman shall not make any unreasonable or exorbitant charge for services rendered. Before a license to conduct a warehouse is granted under the act the warehouseman shall file with the Department a copy of his rules and a schedule of charges to be made by him if licensed. Before making any change in such rules or schedule of charges he shall file with the Department a statement in writing showing the proposed change and the reasons therefor. Each warehouseman shall keep exposed conspicuously in the place prescribed by section 102.8, and at such other place, accessible to the public, as the Service may from time to time designate, a copy of his current rules and schedule of charges.

102.36 Business hours.—(a) Each warehouse shall be kept open for the purpose of receiving grain for storage and delivering grain out of storage every business day for a period of not less than 6 hours between the hours of 8 a. m. and 6 p. m. except as provided in paragraph (b) of this section. The warehouseman shall keep conspicuously posted on the door of the public entrance to his office and to his licensed warehouse a notice showing the hours during which the warehouse will be kept open, except when such warehouse is kept open continuously from 8 a. m. to 6 p. m.

(b) In case the warehouse is not to be kept open as required by paragraph (a) of this section, the notice posted as prescribed in that paragraph shall state the period during which the warehouse is to be closed and the name of an accessible person, with the address where he is to be found, and the telephone number, if any, who shall be authorized to deliver grain stored in such warehouse, upon lawful demand by the depositor thereof or the holder of the receipt therefor, as the case may be.

102.37 System of accounts.—Each warehouseman shall have and maintain a system of accounts, approved for the purpose by the Service. This shall include a stock record showing for each lot of grain received for storage its net weight including dockage, if any, its grade when its grade is required to be, or is, ascertained, its location, the dates received for and delivered out of storage, the receipts issued and canceled, also a separate record for each depositor of his grain, which shall include a detailed record of all moneys received and disbursed and of all insurance policies taken out and canceled on request of each depositor. The warehouseman shall further keep a general insurance account showing the policy number, issuing company, amount, binding and expiration dates of all fire, tornado, and other insurance policies taken out by him and in each instance show the property covered by such policies. These records

shall also show similar information concerning any nonstorage grain handled through the warehouse.

102.38 Reports required.—(a) Each warehouseman shall, from time to time, if requested by the Service, make such reports, on forms prescribed and furnished for the purpose by the Service concerning the condition, contents, operation, and business of the warehouse.

(b) Each warehouseman shall keep on file, as a part of the records of the warehouse, for such period as may be prescribed by the Service, an exact copy of each kind of report submitted.

102.39 Inspections; examination of warehouse.—Each warehouseman shall permit any officer or agent of the Department, authorized by the Secretary, or his designated representative, for the purpose, to enter and inspect or examine on any business day during the usual hours of business, any warehouse for the conduct of which such warehouseman holds a license, the office thereof, the books, records, papers, and accounts relating thereto, and the contents thereof, and such warehouseman shall furnish such officer or agent the assistance necessary to enable him to make any inspection or examination under this section.

102.40 Care of grain in licensed warehouses.—Each warehouseman shall at all times, including any period of suspension of his license, exercise such care in regard to grain in his custody as a reasonably careful owner would exercise under the same circumstances and conditions.

102.41 Care of other grain and other commodities.—If, at any time, a warehouseman shall handle or store grain otherwise than as a licensed warehouseman, or shall handle or store any other commodity, he shall so protect the same, and otherwise exercise care with respect to it, as not to endanger the grain in his custody as a warehouseman or impair the insurance thereof or his ability to meet his obligations and perform his duties under the act and these regulations.

102.42 Excess storage.—If at any time a warehouseman shall store grain in his warehouse in excess of the capacity for which it is licensed, such warehouseman shall immediately notify the Service of such excess storage, the reason therefor, and the location thereof.

102.43 Removal of specially stored grain.—Except as may be required by law or these regulations, a warehouseman shall not remove any grain for storage from the licensed warehouse or a part thereof in which it may be specially binned or stored for insurance purposes, and transfer the grain to another bin without first obtaining the receipt, canceling the same, and issuing a new receipt for said grain following its transfer.

102.44 Grades and weights; bulk grain.—Each warehouseman shall accept all grain for storage and shall deliver out of storage all bulk grain, other than specially binned grain, in accordance with the grades of such grain as determined by a person duly licensed to inspect and grade such grain and to certificate the grade thereof and in accordance with the weights of such grain as determined by a person duly licensed to weigh such grain and to certificate the weight thereof, under the act and these regulations; or if an appeal from the determination of an inspector has been taken, either under the grain standards act and regulations thereunder or under sections 102.81-102.95 of these regulations, such grain shall be accepted for and delivered out of storage in accordance with the grades as finally determined in such appeal.

102.45 Storage of identity-preserved grain.—Upon acceptance for storage of bulk grain the identity of which is to be preserved, the warehouseman shall store such grain in a bin or bins, a compartment or compartments, or other container or containers identified by clearly distinguishable identification insignia permanently and securely affixed thereto, subject to such control by the Department as may seem administratively necessary to protect depositors or holders of receipts. If the grain is received in bags or other suitable containers, such bags or containers shall be so marked and so placed in the warehouse that the identity of the grain will not be lost while in storage. The warehouseman's records shall at all times clearly show the location of all identity-preserved grain stored in the warehouse.

102.46 Sacked grain.—Each warehouseman shall keep sacked grain stored in an orderly manner so as to permit easy access to all lots and to facilitate inspecting, sampling, counting, and identification of each lot.

102.47 Warehouses to be kept clean.—Each warehouseman shall keep his warehouse reasonably clean at all times and free from straw, rubbish, or accumulations of materials that will increase the fire hazard or interfere with the handling of grain.

102.48 Delivery of fungible grain.—Except as may be provided by law or these regulations, each warehouseman, (a) upon proper presentation of a receipt

for any grain other than identity-stored grain, and which grain has not at the request of the depositor or lawful holder of the receipt covering such grain or otherwise as permitted by law or these regulations, been dried or otherwise conditioned by such warehouseman, and upon payment or tender of all advances and legal charges, shall deliver to such depositor or lawful holder of such receipt grain of the grade and quantity named in such receipt; and (b) upon proper presentation of a receipt for any grain the identity of which was to have been preserved during the storage period, and upon payment or tender of all advances and legal charges, shall deliver to the person lawfully entitled thereto, the identical grain so stored in his warehouse.

102.49 Cleaning of grain.—Each warehouseman whose warehouse is equipped with machinery suitable for the purpose, shall clean all bulk grain received for storage in such warehouse, on which the inspector at the request of the depositor or lawful holder of the receipt covering such grain has set dockage for cleaning.

102.50 Grades; separate in storage.—A warehouseman may not mix lots of different grades of grain stored or received for storage except when the identity of the grain to be stored is to be preserved or when a depositor surrenders receipts covering two or more lots and requests the warehouseman to deliver the amount of grain represented by the canceled receipts in such a manner that they will become one lot. The balance, if any, of grain resulting from this operation, after weighing and inspecting, is to be stored with grain of like grade or its identity preserved.

102.51 Stocks to be in balance by grades.—Warehousemen must keep stocks of grain in storage by grades in balance with the grades of grain represented by outstanding storage obligations for which receipts have been or are to be issued, except when the grain has unavoidably improved or deteriorated through natural causes. In case the grades of stored grain should get out of balance with grades represented by outstanding storage obligations for which receipts have been or are to be issued, the warehouseman shall effect proper adjustments.

102.52 Out-of-condition and damaged grain.—(a) If the condition of any grain offered for storage is such that it probably will affect the condition of grain in the licensed warehouse, the warehouseman shall not receive such grain for storage or store such grain in his licensed warehouse, but, if the warehouse has separate bins or is equipped with proper conditioning apparatus, he may receive such grain for storage in such separate bins or he may condition it and then store it in such manner as will not lower the grade of other grain.

(b) In case the warehouseman or the Department shall find that storage of grain in direct contact with any part of the structure of a warehouse results, or is likely to result, in damage to the grain, the warehouseman shall not store grain in such part of the warehouse except in such manner and by the use of such material as will keep the grain in the same condition as when stored.

102.53 Reconditioning grain.—In case the warehouseman considers that any portion of the grain in his warehouse is out of condition, or becoming so, he shall direct the inspector to examine the grain in question. If the inspector finds such grain to be out of condition or becoming so and he is of the opinion that by re-elevating, screening, blowing, cooling, or drying the grain can be brought back into condition or that further deterioration can be prevented, such warehouseman shall give immediate notice of the fact to the persons and in the manner specified in section 102.54. If, within 24 hours after the giving of such notice, the owners of such grain have not otherwise directed as to the disposition of same, such warehouseman, with the approval of the inspector, shall, in his warehouse to the extent to which it is equipped with machinery suitable for the purpose, or may in another warehouse or elevator so equipped to the extent to which his warehouse is not equipped with suitable machinery, subject the grain to any or all of the above-mentioned processes.

102.54 Notice of condition of grain.—(a) If the warehouseman with the approval of the inspector, shall determine that the further deterioration of any grain cannot be prevented by reconditioning, or after treating it in accordance with section 102.53, it is still out of condition, the warehouseman shall give immediate notice of the fact, in accordance with paragraphs (b) and (c) of this section.

(b) Such notice shall state (1) the warehouse in which the grain is stored, (2) the quantity, kind, and grade, if determined, of the grain at the time the notice is given. (3) the actual condition of the grain as nearly as can be ascer-

tained, and the reason, if known, for such condition, (4) the oldest outstanding receipts covering the amount of grain out of condition, other than sacked or specially binned grain, upon which the grain will be delivered, giving the number and date of each such receipt and the quantity, the kind, and grade of the grain as stated in such receipts, or (5) the outstanding receipts covering the grain out of condition the identity of which was to have been preserved, giving the number and date of each such receipt and the designation of the bin, container, or location of such grain as stated in the receipt therefor, and (6) that such grain will be delivered upon the return and cancellation of the receipts therefor.

(c) A copy of such notice shall be delivered in person or shall be sent by mail (1) to the persons holding the oldest receipts covering the grain in question mentioned in subdivisions (4) and (5) of paragraph (b) of this section if known to the warehouseman, (2) to any other person, including the persons mentioned in paragraph (d) of this section, known by the warehouseman to be interested in the grain, (3) to the grain exchange, board of trade, or chamber of commerce, if any, in the city or town in or nearest to which the warehouse is located, and (4) to the Administrator. If the holders of the receipts and the owners of the grain are known to the warehouseman and cannot, in the regular course of the mails, be reached within 12 hours, the warehouseman shall, whether or not requested so to do in accordance with paragraph (d) of this section, also immediately notify such persons by telegraph or telephone at their expense. Public notice shall also be given by posting a copy of such notice in a conspicuous place in the main office of the warehouse where receipts are issued.

(d) Any person, interested in any grain or the receipt covering such grain stored in a warehouse, may, in writing, notify the warehouseman conducting such warehouse, of the fact and nature of his interest, and such warehouseman shall keep a record of the fact. If such person requests, in writing, that he be notified regarding the condition of any such grain and agrees to pay the cost of any telegraph or telephone toll charge, such warehouseman shall notify such person in accordance with such request.

(e) Nothing contained in this section shall be construed as relieving the warehouseman from properly caring for any grain after notification of its condition in accordance with this section.

102.55 Sale of grain at public auction.—If the grain, advertised in accordance with the requirements of section 102.54, has not been removed from storage by the owner thereof within 10 days from the date of notice of its being out of condition, the warehouseman in whose warehouse such grain is stored may sell the same at public auction at the expense and for the account of the owner after giving 10 days' notice in the manner specified in section 102.54 (c).

102.56 Identity-preserved grain; acceptance.—Subject to the provisions of section 13 of the act, a licensed warehouseman may elect not to receive grain for storage the identity of which is to be preserved while in storage.

FEES

102.57 License fees.—There shall be charged and collected a fee of \$20 for each original warehouseman's license, and a fee of \$10 for each amended or reinstated warehouseman's license applied for by a warehouseman, and a fee of \$6 for each license or amendment thereto issued to an inspector and/or weigher, except that no fee shall be charged for issuance of a license to an inspector who holds an unsuspended and unrevoked license under the United States Grain Standards Act and regulations thereunder to inspect and grade any grain and to certificate the grade thereof.

102.58 Warehouse inspection fee.—There shall be charged and collected for each original inspection of a warehouse under the act, when such inspection is made upon application of a warehouseman, a fee at the rate of \$5.00 for each 10,000 bushels of the grain storage capacity of the warehouse, or fraction thereof, determined in accordance with section 102.6 (a), but in no case less than \$20.00 nor more than \$500.00, and for each reinspection, applied for by the warehouseman, a fee based on the extent of the reinspection, proportioned to, but not greater than, that prescribed for the original inspection.

102.59 Advance deposit.—Before any warehouseman's license, or amendment thereto, or any inspector's and/or weigher's license, is granted, or original examination or inspection, or reexamination or reinspection applied for by a warehouseman, is made, pursuant to these regulations, the warehouseman and/or inspector or weigher shall deposit with the Service the amount of the fee prescribed. Such deposit shall be made in the form of a check, certified if required by the Service, draft, or post office or express money order, payable to the order of "Treasurer of the United States."

102.60 Return of excess deposit.—The Treasurer of the United States shall hold in his custody each advance deposit made under section 102.59 until the fee, if any, is assessed and he is furnished by the Service with a statement showing the amount thereof and against whom assessed. Any part of such advance deposit which is not required for the payment of any fee assessed shall be returned to the party depositing same.

INSPECTORS AND WEIGHERS

102.61 Inspectors' and weighers' applications.—(a) Application for licenses to inspect and grade or to weigh grain under section 11 of the act shall be made to the Administrator on forms furnished for the purpose by him. Each application shall be in English, shall be signed by the applicant, and shall contain or be accompanied by a statement from the warehouseman for whom the applicant will inspect, grade, or weigh grain under the act showing whether the applicant is competent and is acceptable to such warehouseman for the purpose.

(b) Each inspector's application shall contain (1) evidence that he can correctly grade grain in accordance with the official standards of the United States, or in the absence of such standards in accordance with any standards approved by the Administrator, (2) that he has passed his twenty-first birthday, (3) satisfactory evidence that he will be provided with such means or facilities for inspecting and grading grain as may be deemed necessary, for use in the locality in which the applicant expects to perform services as a licensed inspector.

(c) In lieu of compliance with the requirements of paragraph (b) of this section, the license applied for may be granted whenever such applicant furnishes satisfactory evidence that he holds an effective license under the Grain Standards Act and regulations thereunder, to inspect and grade such grain and to certificate the grade thereof.

(d) Applications for licenses to weigh grain shall be on forms furnished for the purpose by the Administrator and shall give such information as will show the applicant's experience in weighing grain.

(e) A single application may be made by any person for a license as both inspector and weigher upon complying with the requirements of this section.

(f) An applicant shall at any time furnish such additional information as the Department shall find to be necessary to the consideration of his application.

102.62 Examination.—Each applicant for license as an inspector or weigher and each inspector or weigher shall, whenever requested by an authorized agent of the Department, submit to an examination or test to show his ability properly to inspect and grade or to weigh grain.

102.63 Posting of license.—Each inspector or weigher shall keep his license conspicuously posted in a place designated for the purpose by the Service.

102.64 Duties of inspector and weigher.—Each inspector and each weigher whose license remains in effect shall, without discrimination, as soon as practicable, and upon reasonable terms, inspect and grade or weigh and certificate the grade or weight of grain, stored or to be stored in a warehouse, for which he holds a license, if such grain be offered to him under such conditions as permit proper inspection and weighing and the determination of the grade or weight thereof. No inspector shall issue a certificate of grade for any grain unless the inspection and grading thereof be based upon a correct and representative sample of the grain.

102.65 Inspection certificate; form.—(a) Except as provided in paragraph (b) of this section, each inspection certificate issued under the act by an inspector shall be in a form approved for the purpose by the Department, and shall embody the following information within its written or printed terms: (1) The caption "United States Warehouse Act, Grain Inspection Certificate", (2) whether it is an original, a duplicate, or other copy, and that it is not negotiable, (3) the name and location of the warehouse in which the grain is or is to be stored, (4) a statement showing whether the inspection covers grain moving into or out of the warehouse, (5) the date of the certificate, (6) the consecutive number of the certificate, (7) the approximate amount of grain covered by the certificate, (8) the kind of grain covered by the certificate, (9) the grade of the grain, as determined by such licensed inspector, in accordance with Section 102.76, and, in the case of grain for which no official grain standards of the United States are in effect, the standard or description in accordance with which such grain is graded, (10) a statement that the certificate is issued by an inspector licensed under the United States Warehouse Act and the regulations

thereunder, (11) a statement conspicuously placed to the effect that the certificate is not valid for the purposes of the United States Grain Standards Act, and (12) the signature of the inspector who inspected and graded the grain. In addition, the inspection certificate may include any other matter not inconsistent with the act or the regulations in this part, provided the approval of the Service is first secured.

(b) In lieu of the inspection certificate provided for in the preceding paragraph, each inspector, who holds an unsuspended and unrevoked license under the Grain Standards Act and regulations thereunder to inspect and grade any grain and to certificate the grade thereof for shipment or delivery for shipment in interstate or foreign commerce, shall, unless otherwise requested as to any such grain by the owner or depositor thereof, issue a certificate of grade covering such grain in accordance with the Grain Standards Act and regulations thereunder. Such grain shall be deemed to be inspected and graded and such certificate of grade shall be deemed to be an inspection certificate for the purposes of the act and these regulations.

102.66 Copies of certificate to be accessible.—Each inspector shall, as soon as possible after grading any grain and not later than the close of business on the next following business day, make accessible to the parties interested in a transaction in which the grain is involved at the place designated in section 102.63 a true copy of the inspection certificate issued by him for such grain, or a record of each lot or parcel of grain inspected and graded by such licensed inspector showing the information contained on such inspection certificate.

102.67 Weight certificate.—Each weight certificate issued under the act by a weigher shall be in a form approved for the purpose by the Service, and shall embody the following information within its written or printed terms: (a) The caption "United States Warehouse Act, Grain Weight Certificate", (b) whether it is an original, a duplicate, or other copy, and that it is not negotiable, (c) the name and location of the warehouse in which the grain is or is to be stored, (d) whether the grain is weighed into or out of the warehouse, (e) the date of the certificate, (f) the consecutive number of the certificate, (g) the net weight, including dockage, if any, of the grain, (h) a statement that the certificate is issued by a weigher licensed under the United States Warehouse Act and the regulations thereunder, and (i) the signature of the weigher. In addition, the weight certificate may include any other matter not inconsistent with the act or the regulations in this part provided the approval of the Service is first secured.

102.68 Certificate; grade and weight.—The grade and weight of any grain, ascertained by an inspector and a weigher, may be stated on a certificate meeting the combined requirements of sections 102.65 and 102.67 if the form of such certificate shall have been approved for the purpose by the Service.

102.69 Copies of certificates to be kept.—Each inspector and each weigher shall keep for a period of one year in a place accessible to interested parties a copy of each certificate issued by him under these regulations, and shall file a copy of each such certificate with the warehouse in which the grain covered by the certificates is stored.

102.70 Inspections.—Each inspector and each weigher shall permit any authorized officer or agent of the Department to inspect or examine, on any business day during the usual hours of business, his books, papers, records, and accounts relating to the performance of his duties under the act and these regulations, and shall, with the consent of the warehouseman concerned, assist any such officer or agent in the inspection or examination mentioned in section 102.39 as far as any such inspection or examination relates to the performance of the duties of such inspector or weigher under the act and these regulations.

102.71 Reports.—Each inspector and each weigher shall, from time to time, if requested by the Service, make reports, on forms approved for the purpose by the Service, bearing upon his activities as such inspector or weigher.

102.72 Licenses; suspension or revocation.—Pending investigation, the Secretary, or his designated representative, may, whenever he deems necessary, suspend the license of an inspector or weigher temporarily without hearing. Upon a written request or a satisfactory statement of reasons therefor, submitted by the inspector or weigher, the Secretary, or his designated representative, may, without hearing, suspend or revoke the license issued to such inspector or weigher. The Secretary, or his designated representative, may, after opportunity for hearing has been afforded in the manner prescribed in this section, suspend or revoke a license issued to an inspector or a weigher when such licensee, (a) has ceased to perform services as such inspector or weigher, or (b) has in any other manner become incompetent or incapacitated to perform the duties of such inspector or weigher. As soon as it shall come to the atten-

tion of a warehouseman that either of the conditions mentioned under (a) or (b) exists, it shall be the duty of such warehouseman to notify the Service in writing. Before the license of any inspector or weigher is permanently suspended or revoked pursuant to section 12 of the act, such inspector or weigher shall be furnished by the Secretary, or his designated representative, a written statement specifying the charges and shall be allowed a reasonable time within which he may answer the same in writing and apply for a hearing, an opportunity for which shall be afforded in accordance with section 102.99.

102.73 Suspended or revoked license; termination of license.—(a) In case a license issued to an inspector or a weigher is suspended or revoked by the Secretary, or his designated representative, such license shall be returned to the Secretary. At the expiration of any period of suspension of such license, unless in the meantime it be revoked, the dates of the beginning and termination of the suspension shall be indorsed thereon, it shall be returned to the inspector or weigher to whom it was originally issued and it shall be posted as prescribed in section 102.63.

(b) Any license issued under the act and these regulations to an inspector or weigher shall automatically be suspended as to any warehouse whenever the license of such warehouse shall be suspended and shall automatically terminate as to any warehouse whenever the license of such warehouse shall be revoked. Upon either suspension or termination of any inspector's or weigher's license under this paragraph, such license shall be returned to the Department. In case such license shall apply to other warehouses, the Secretary, or his designated representative, shall issue to the licensee a new license, omitting the names of the warehouses for which licenses have been revoked or suspended. Such new license shall be posted as prescribed in section 102.63.

102.74 Lost or destroyed licenses.—Upon satisfactory proof of the loss or destruction of a license issued to an inspector or weigher, a duplicate thereof may be issued under the same number, in the discretion of the Secretary, or his designated representative.

102.75 Unlicensed inspectors and weighers.—No person shall in any way represent himself to be an inspector or weigher licensed under the act unless he holds an unsuspended and unrevoked license issued under the act.

GRAIN GRADING

102.76 Grade; statement.—Whenever the grade of grain is required to be or is stated for the purpose of the act or these regulations, it shall be stated in accordance with sections 102.77-102.79.

102.77 Official grain standards of the United States.—The official grain standards of the United States are hereby adopted as the official grain standards for the purposes of the act and these regulations.

102.78 Standards of grades for other grain.—Until grades for any kind of grain are officially promulgated by the Secretary, the grade of grain, for which no official grain standards of the United States are in effect, shall be stated (a) in accordance with the State standards, if any, established in the State in which the warehouse is located, (b) in the absence of any State standards, in accordance with the standards, if any, adopted by the local board of trade, chamber of commerce, or by the grain trade generally in the locality in which the warehouse is located, subject to the approval of the Service, or (c) in the absence of the standards mentioned in subdivisions (a) and (b) of this section, in accordance with any standards approved for the purposes by the Service.

102.79 Grades based on inspection and sample.—Whenever the grade of grain is required to be or is stated for the purposes of the act or these regulations, it shall be based upon a correct and representative sample of the grain and the inspection and grading thereof shall be made under conditions which permit the determination of its true grade.

GRAIN APPEALS

102.80 Appeal procedure.—In case a question arises as to the true grade of grain stored or to be stored in a licensed warehouse, for which official grain standards of the United States are in effect and for which a grain inspection certificate has been issued in accordance with section 102.64, any interested party may take an appeal for the determination of the grade of such grain

as provided in this section. If the grain inspection certificate involved was issued under the Grain Standards Act, the appeal shall be governed by the regulations issued under that act, provided that a copy of the Federal appeal grade certificate issued in the appeal, together with any receipt covering the grain filed in the appeal, shall be sent to the licensed warehouseman concerned, and a copy of the Federal appeal grade certificate shall be sent to the licensed inspector and to each other person shown by the record of the appeal to be interested therein. When the grain inspection certificate with respect to which the appeal is taken was not issued under the Grain Standards Act, the appeal shall be governed by sections 102.81 through 102.95.

102.81 Complaint.—In order to take such an appeal a complaint in writing in accordance with section 102.82 shall be filed, in the office of Federal Grain Supervision in the district in which the inspection appealed from was made, not later than the close of business on the second business day following the date the grading was performed, as shown by the record required by section 102.66.

102.82 Contents of complaint.—Such complaint shall be in English and shall state (a) the name and post office address of the complainant, (b) the names and post office addresses of all other parties interested in the grain involved, or if no other parties are named, why not, (c) the name and location of the licensed warehouse in which the grain is or is to be stored, (d) the identification and the location of the grain at the time of taking the appeal, (e) if samples have been agreed upon and are submitted in accordance with section 102.86 (b), a statement thereof, and (f) such other information as may be required by the office of Federal Grain Supervision in which such complaint is filed or by the Administrator. Such complaint shall be signed by the complainant and may be signed by any one or more or all of the parties interested in such appeal.

102.83 Proof of agent's authority.—In case a complaint is filed under sections 102.81-102.95 by a person purporting to act in behalf of another person, the grain supervisor in charge of the office of Federal Grain Supervision in which such complaint is filed, or the Administrator, may, if he considers necessary, require proof of the authority of such person to file the complaint.

102.84 Certificate of inspection and receipt.—The complainant shall file or cause to be filed in the office of Federal Grain Supervision mentioned in section 102.81, with the complaint or before the issuance of the grade memorandum in the appeal, the inspection certificate for the grain involved issued by the inspector from whose inspection the appeal is taken together with the receipt, if any, covering such grain. If such inspection certificate be in the custody or control of the inspector he shall upon request immediately transmit or deliver it to said office.

102.85 Filing complaint; extension.—Upon a showing of the discovery of fraud or other good cause for an extension of time the grain supervisor in charge of the office mentioned in section 102.81 may permit the filing of a complaint or sample after the time prescribed therefor in these regulations, and a statement of such appeal by the official making the same.

102.86 Determination of appeals; samples.—(a) No appeal taken under sections 102.81-102.95 shall be determined except upon the basis of a representative sample or samples of the grain involved.

(b) The complainant may submit representative samples of the grain involved which have been agreed upon by the warehouseman in whose warehouse the grain is or is to be stored and the interested parties, other than such warehouseman, or have been drawn by a disinterested person selected for the purpose by the warehouseman and such parties.

(c) If samples which have been submitted pursuant to paragraph (b) of this section be deemed unsatisfactory, or if such samples be not submitted, a representative sample or samples of the grain involved shall be drawn by a person authorized for the purpose by the Service or the grain supervisor in charge of the office of Federal Grain Supervision in which the appeal is heard; and the complainant or the warehouseman shall have the grain made accessible and placed under such conditions as to permit the taking of a representative sample.

102.87 Samples required.—Samples of grain involved in an appeal shall be delivered in person or transmitted by express or parcel post to the office of Federal Grain Supervision in which the appeal is filed.

102.88 Representative samples.—For the purposes of an appeal under sections 102.81–102.95 no sample shall be deemed to be representative unless it comply with the following requirements:

(a) It shall be at least 2 quarts in size, of which at least 1½ pints shall be inclosed in a clean, airtight container and the remainder, if any, in a clean cloth sack.

(b) Samples shall be taken from as many different portions of the lot or parcel, in accordance with the instructions of the Service or the grain supervisor in charge of the office mentioned in section 102.81, as will show an average of the lot or parcel.

(c) The grain taken from the different portions of a lot or parcel shall be thoroughly mixed, and such mixtures, or a typical portion thereof, otherwise complying with this section shall constitute a sample of the entire lot or parcel.

(d) In case any portion of a lot or parcel of grain is sour, musty, excessively wet, heating, hot, fire burnt, infested with live weevil or other insects injurious to stored grain, or otherwise of distinctly low quality, separate samples otherwise complying with this section shall be taken, respectively, from such portion and from the remaining portion. There shall be filed with such samples a statement showing the estimated quantity of each portion of the grain from which each such sample was taken.

(e) In case it shall appear that a lot or parcel of grain has been so loaded or handled as intentionally to conceal evidently inferior grain, a sample of such inferior grain, otherwise complying with this section, shall constitute a sample of the entire lot or parcel.

102.89 Appeal; dismissal.—The grain supervisor in charge of an office of Federal Grain Supervision in which an appeal is filed may dismiss such appeal without its determination: (a) upon request of the complainant, (b) if it be found that the appeal was not taken in good faith, (c) for noncompliance with these regulations, or (d) because sufficient evidence is not available upon which to determine the true grade of the grain.

102.90 Grade certificate; issuance.—The sample or samples of the grain involved in an appeal complying with sections 102.81–102.95 shall be examined as soon as possible, such tests shall be applied as are necessary, and except as provided in Section 102.89 a grade certificate shall be issued by the grain supervisor hearing the appeal, showing the grade assigned by him to such grain. Such grade certificate shall supersede the inspection certificate for the grain involved. Immediately upon the issuance of a grade certificate under this section the original thereof, together with any receipt covering such grain filed in the appeal, shall be sent to the licensed warehouseman concerned and a copy shall be sent to the licensed inspector and to each other person shown by the record of the appeal to be interested therein.

102.91 Grain grade appeal fees.—The fees and charges in appeals from grain inspection certificates not issued under the Grain Standards Act shall be the same as those prescribed in the regulations under the Grain Standards Act for appeals from grain inspection certificates issued under that act. Such fees and charges shall be assessed against the appellant.

102.92 Advance deposit; fees; how paid.—(a) If required by the grain supervisor in charge of the office of Federal Grain Supervision in which the complaint is filed or by the Administrator, the complainant shall make an advance deposit to cover the expenses payable by him under section 102.91. Such deposit shall be in an amount fixed by such grain supervisor or the Administrator and shall be in the form of a check, certified if required by the Administrator, or a post office or express money order payable to the order of "Treasurer of the United States." Additional sums may be required by the official hearing the appeal when deemed necessary by him as advance deposits. In case an appeal be sustained, the amount of the fee assessed shall be refunded. As soon as possible after the determination of an appeal in connection with which any such advance deposit shall have been made, the Administrator shall furnish the Treasurer of the United States with a statement of all fees and expenses chargeable against such advance deposits. Thereupon the Treasurer of the United States shall return to the person making the advance deposit as much thereof as shall not be required for the payment of such expenses.

(b) All fees not covered by advance deposits shall be payable immediately upon service of the original or a copy of the grade certificate of the grain super-

visor and shall be paid by check, certified if required by the Administrator, or post office or express money order, drawn to the order of "Treasurer of the United States," or in cash to the Treasurer of the United States.

(c) In case an appeal is not sustained, all sums assessed as fees and expenses against such advance deposits and all sums collected and received by the Treasurer of the United States in payment of such fees and expenses shall be deposited and covered into the Treasury of the United States as miscellaneous receipts.

102.93 Disposition of samples.—Samples of grain submitted in appeals under sections 102.81–102.95, or such portions thereof as have not been used in determining the grade and the containers of such samples may, after the expiration of one month be used for the purposes of the Department or disposed of in accordance with the property regulations of the Department and the proceeds, if any, covered into the Treasury of the United States as miscellaneous receipts, or may, at any time in the discretion of the Administrator, be returned to the party by whom they were filed or his agent at his expense.

102.94 Appeal; not to be refused.—No rule, regulation, bylaw, or custom of any market, board of trade, chamber of commerce, exchange, inspection department or similar organization, nor any contract, agreement, or understanding, shall be ground for refusing to hear and determining any appeal taken under sections 102.81–102.95.

102.95 Appeal; freedom.—No person, licensed under the act, shall, directly or indirectly by any means whatsoever, deter or prevent or attempt to deter or prevent any party from taking an appeal under sections 102.81–102.95.

MISCELLANEOUS

102.96 Bonds required; re State warehouses.—Every person applying for a license, or licensed under section 9 of the act, shall, as such, be subject to all portions of these regulations, so far as they may relate to warehousemen. In case there is a law of any State providing for a system of warehouses owned, operated or leased by such State, a person applying for a license under section 9 of the act, to accept the custody of grain and to store the same in any of said warehouses, may, in lieu of a bond or bonds, complying with sections 102.13 and 102.14, file with the Secretary, or his designated representative, a single bond meeting the requirements of the act and these regulations, in such form, and in such amount not less than \$5,000 as he shall prescribe, to insure the performance by such person, with respect to the acceptance of the custody of grain and its storage in the warehouses in such system for which licenses are or may be issued, of his obligations arising during the periods of such licenses, and in addition, if desired by the applicant, during the periods of any amendments thereto. In fixing the amount of such bond, consideration shall be given, among other appropriate factors, to the character of the warehouses involved, their actual or contemplated capacity, the bonding requirements of the State and its liability with respect to such warehouses. If the Secretary, or his designated representative, shall find the existence of conditions warranting such action, there shall be added to the amount of the bond so fixed, a further amount, fixed by him, to meet such conditions.

102.97 Publications.—Publications under the act and these regulations shall be made in such media as may be deemed proper by the Administrator.

102.98 Information of violations.—Every person licensed under the act shall immediately furnish the Department any information which comes to the knowledge of such person tending to show that any provision of the act or these regulations has been violated.

102.99 Procedure in hearings.—For the purpose of hearings under the act or these regulations, except those relating to appeals or arbitrations, the licensee involved shall be allowed a reasonable time within which affidavits and other proper evidence may be submitted. If requested by the licensee within such time, an oral hearing, of which reasonable notice shall be given, shall be held before, and at a time and place fixed by an official authorized by the Secretary. The testimony of the witnesses at such oral hearing shall be upon oath or affirmation administered by the official before whom the hearing is held when required by him. Such oral hearing may be adjourned by such official from time to time. After reasonable notice to all parties concerned, the deposition of any witness may be taken at a time and place and before a person designated for the purpose by the official before whom the hearing is held. Every written

entry in the records of the Department made by an officer or an employee thereof in the course of his official duty, which is relevant to the issue involved in a hearing, shall be admissible as *prima facie* evidence of the facts stated therein without the production of such officer or employee. Copies of all papers and all the evidence submitted or considered in such hearing shall be made a part of the records of the Department. At the end of the oral hearing, the parties shall be afforded an opportunity to file proposed findings of fact, conclusions of law, and orders, after which the official before whom the hearing is held shall prepare his report including his recommended findings of fact, conclusions of law, and order, which shall be served upon the parties, who may file exceptions thereto within a time specified by such official. After the expiration of such time, such report together with any proposed findings of fact, conclusions of law, and orders, and exceptions filed by the parties shall be transmitted to the Secretary for consideration. Each party shall pay all expenses contracted by him in connection with any hearing under this section.

102.100 One document and one license to cover several products.—A license may be issued for the storage of two or more agricultural products in a single warehouse. Where such a license is desired, a single application, inspection, bond, record, report or other paper, document or proceeding relating to such warehouse, shall be sufficient unless otherwise directed by the Administrator.

102.101 Assets and bond; combination warehouses.—Where such license is desired, the amount of the bond, net assets, and inspection and license fees shall be determined by the Administrator in accordance with the regulations applicable to the particular agricultural product which would require the largest bond and the greatest amount of net assets and of fees if the full capacity of the warehouse was used for its storage.

102.102 Amendments.—Any amendment to these regulations, unless otherwise stated herein, shall apply in the same manner to persons holding licenses at the time it becomes effective as it applies to persons thereafter licensed under the act.

TERMINAL AND FUTURES CONTRACT MARKETS

102.103 Futures contract markets defined.—For the purpose of sections 102.103–102.111 a futures contract market is any grain market designated as a futures contract market under authority of the Commodity Exchange Act (49 Stat. 1491, as amended; 7 U. S. C. 1–17a).

102.104 Licenses to weigh grain; futures markets.—Licenses to weigh grain into, out of, and within licensed warehouses, receipts of which are deliverable in satisfaction of futures contracts, may be issued to the weighmaster and his deputies of such contract market.

102.105 Registrar of warehouse receipts; futures contract market.—The Administrator may approve as registrar of warehouse receipts issued for grain in licensed elevators operating in any terminal market or in any futures contract market the official designated by the State in which such market is located, if such an official position has been created by law, or any other individual, provided such individual is not an employee of, or the owner of, any such licensed elevator, or the owner of, or an employee of the owner of, grain deposited in any such licensed elevator.

102.106 Licenses to State and other employees.—Licenses may be issued to employees of the grain inspection department of any State or any other agency to inspect and to certificate the grade of grain moving into, out of, or within, the licensed elevators.

102.107 License to chief sampler or deputy.—Licenses may be issued to a chief sampler or his deputies in any market to sample and to inspect grain stored or to be stored in any licensed warehouse in a specified market for the purpose of determining the storability of the grain, subject to the act and the regulations thereunder. Should a difference of opinion exist between any licensed warehouseman, the licensed sampler or any party having an interest in the grain, an appeal may be filed within 24 hours with the Administrator who shall appoint three disinterested persons to serve as an appeals committee and the findings of this committee shall be final and binding on all parties.

102.108 Additional bonding required.—In addition to the financial responsibility and the bonding requirements of sections 102.6 and 102.13–102.17, such additional bonds shall be required for the protection of the public as will make the bonded responsibility of each licensed warehouseman equal to the maximum

amount of bond required for nonlicensed warehousemen by the exchange, board of trade, or other agency within said market in which the licensed warehouseman is operating.

102.109 Examination of warehouses; board of trade interest.—Annually or more frequently if desired, a duly authorized committee of any exchange or board of trade that has been designated as a contract market may enter any warehouse operating under these regulations, when accompanied by United States warehouse examiners, to observe the official examination of the warehouse; or such committee may participate in the making of such examination, under the supervision and direction of the United States warehouse examiner in charge. The committee shall be afforded full knowledge of the quantities, kinds, grades, and condition of all grain in the warehouse. The committee may also with the warehouse examiners have access to the warehouseman's records of receipts, fire insurance, weights, and grades. In lieu of an examination by any committee of the exchange or board of trade the Department of Agriculture will furnish, if desired, to the secretary of the exchange or board of trade a summarized statement of its findings of conditions at each licensed warehouse operating within the market.

102.110 Registration of public warehouse receipts; protection.—When a contract market designates any agency for the registration of public warehouse receipts and such agency is approved as provided for in section 102.105, all warehouse receipts shall be registered with the registrar and any change in ownership of a warehouse receipt shall be reported to the registrar by the owner thereof, giving his name and address to the registrar. All registered receipts shall be entitled to the following protection:

(a) Whenever any licensed warehouseman considers that any grain stored in his warehouse is out of condition, or becoming so, and should be loaded out in order to protect the interests of the parties concerned, such warehouseman shall notify the registrar and the Administrator, giving the location, approximate quantity, grades, and condition of such grain, and the specific reason which makes loading out necessary. The registrar shall immediately notify the chief sampler, if there be one, otherwise the chief inspector, of the contract market who shall at once proceed to the warehouse in which the grain is stored and examine it, in conjunction with the licensed warehouseman. If the chief sampler, or chief inspector, agrees with the warehouseman that the grain should be loaded out, he shall so notify the registrar and the Administrator. If the chief sampler does not agree with the warehouseman, the latter shall have the right to appeal to the Administrator who shall appoint an appeals committee as provided in section 102.107. If, on such appeal, the warehouseman is sustained, the registrar shall be notified and such warehouse receipts as are selected as herein provided shall no longer be regular for delivery in satisfaction of futures contracts made under the rules and regulations of such contract market.

The registrar shall thereupon select the oldest registered warehouse receipt for grain of the grade involved and such additional next oldest registered warehouse receipts in the order of their issuance as may be necessary to equal the total quantity of the grain involved, unless such grain has been stored "identity preserved," and shall notify such holder or holders or their agents and the president of the contract market of the condition of the grain and the necessity for its being loaded out. When this information reaches the president of the contract market he shall appoint a committee consisting of five disinterested handlers of cash grain and notify the Administrator of the appointment of said committee giving the name, address, and business of each member. Each member of said committee shall be subject to disapproval by the Administrator. If no exception is taken to the committee membership during the same business day by the Administrator, the committee shall meet at once, and after taking into consideration various factors that establish the value of the grade of grain called for by the receipts held by such owner or owners, shall determine the fair value of the grain on the basis of the market quotations for grain of the grade called for by the receipts on the day of the finding of the appeals committee that the grain should be loaded out, which price shall be paid to the owner or holder of each such receipt by the licensed warehouseman. If the price offered is not satisfactory to any such owner or holder, a committee appointed by the president of such contract market at the request of such owner or holder shall procure other offers for such grain and such offers shall be immediately reported to such owner or holder

or to his agent. If the owner refuses to accept any such offers he shall have the 2 following business days to order and furnish facilities for loading such grain out of store and during this period the warehouseman shall be obliged to deliver the grain covered by the warehouse receipts, but not more than 3 days shall elapse after notification by the registrar to the holder of the receipts before satisfactory disposition shall have been made of the grain either by sale or by ordering out and furnishing facilities to load same, provided the amount of such grain does not exceed 100,000 bushels in any one elevator. If the amount of grain in question exceeds 100,000 bushels, the owner or owners of the warehouse receipts shall be allowed 48 hours of grace over and above aforementioned 3 days for each 100,000 bushels or fraction thereof in excess of the first 100,000 bushels.

(b) In the event that the holder of the warehouse receipt or his agent fails to remove the grain or make other satisfactory disposition of same within the prescribed time it shall be held for his account and any loss in grade sustained shall likewise be for his account.

(c) Nothing in the foregoing provisions shall be construed as prohibiting the warehouseman from fulfilling contracts from other stocks under his control, subject to the United States Warehouse Act and regulations thereunder.

102.111 Terminal markets.—Sections 102.103–102.111 apply only to warehousemen operating in such markets as may have been heretofore or may be hereafter designated as futures contract markets, and sections 102.103–102.107 apply also to warehousemen operating in such markets as the Department may view as terminal markets, and the appointment heretofore or hereafter of a registrar of warehouse receipts, as provided in section 102.105 is conclusive that the Department views such market as a terminal market for purposes of the Warehouse Act. All other regulations issued under the act and applicable to grain warehousemen shall apply to warehousemen operating in such terminal or futures contract markets except as such regulations may conflict with sections 102.103–102.111.

UNITED STATES WAREHOUSE ACT

[39 United States Statutes at Large, page 486, as amended July 25, 1919, February 23, 1923, and March 2, 1931]

That this Act shall be known by the short title of "United States Warehouse Act."

SEC. 2. That the term "warehouse" as used in this Act shall be deemed to mean every building, structure, or other protected inclosure in which any agricultural product is or may be stored for interstate or foreign commerce, or, if located within any place under the exclusive jurisdiction of the United States, in which any agricultural product is or may be stored. As used in this Act, "person" includes a corporation or partnership or two or more persons having a joint or common interest; "warehouseman" means a person lawfully engaged in the business of storing agricultural products; and "receipt" means a warehouse receipt.

SEC. 3. That the Secretary of Agriculture is authorized to investigate the storage, warehousing, classifying according to grade and otherwise, weighing, and certification of agricultural products; upon application to him by any person applying for license to conduct a warehouse under this Act, to inspect such warehouse or cause it to be inspected; at any time, with or without application to him, to inspect or cause to be inspected all warehouses licensed under this Act; to determine whether warehouses for which licenses are applied for or have been issued under this Act are suitable for the proper storage of any agricultural product or products; to classify warehouses licensed or applying for a license in accordance with their ownership, location, surroundings, capacity, conditions, and other qualities, and as to the kinds of licenses issued or that may be issued for them pursuant to this Act; and to prescribe, within the limitations of this Act, the duties of the warehousemen conducting warehouses licensed under this Act with respect to their care of and responsibility for agricultural products stored therein.

SEC. 4. That the Secretary of Agriculture, or his designated representative, is authorized, upon application to him, to issue to any warehouseman a license for the conduct of a warehouse or warehouses in accordance with this Act

and such rules and regulations as may be made hereunder: *Provided*, That each such warehouse be found suitable for the proper storage of the particular agricultural product or products for which a license is applied for, and that such warehouseman agree, as a condition to the granting of the license, to comply with and abide by all the terms of this Act and the rules and regulations prescribed hereunder.

SEC. 5. That each license issued under Sections 4 and 9 of this Act shall terminate as therein provided, or in accordance with the terms of this Act and the regulations thereunder, and may from time to time be modified or extended by a written instrument.

SEC. 6. That each warehouseman applying for a license to conduct a warehouse in accordance with this Act shall, as a condition to the granting thereof, execute and file with the Secretary of Agriculture a good and sufficient bond to the United States to secure the faithful performance of his obligations as a warehouseman under the terms of this Act and the rules and regulations prescribed hereunder, and of such additional obligations as a warehouseman as may be assumed by him under contracts with the respective depositors of agricultural products in such warehouse. Said bond shall be in such form and amount, shall have such surety or sureties, subject to service of process in suits on the bond within the State, District, or Territory in which the warehouse is located, and shall contain such terms and conditions as the Secretary of Agriculture may prescribe to carry out the purposes of this Act, and may, in the discretion of the Secretary of Agriculture, include the requirements of fire and/or other insurance. Whenever the Secretary of Agriculture, or his designated representative, shall determine that a previously approved bond is, or for any cause has become, insufficient, he may require an additional bond or bonds to be given by the warehouseman concerned, conforming with the requirements of this section, and unless the same be given within the time fixed by a written demand therefor the license of such warehouseman may be suspended or revoked.

SEC. 7. That any person injured by the breach of any obligation to secure which a bond is given, under the provisions of Sections 6 or 9, shall be entitled to sue on the bond in his own name in any court of competent jurisdiction to recover the damages he may have sustained by such breach.

SEC. 8. That upon the filing with and approval by the Secretary of Agriculture, or his designated representative, of a bond, in compliance with this Act, for the conduct of a warehouse, such warehouse may be designated as bonded hereunder; but no warehouse shall be designated as bonded under this Act, and no name or description conveying the impression that it is so bonded shall be used until a bond, such as provided for in Section 6, has been filed with and approved by the Secretary of Agriculture, or his designated representative, nor unless the license issued under this Act for the conduct of such warehouse remains unsuspended and unrevoked.

SEC. 9. That the Secretary of Agriculture, or his designated representative, may, under such rules and regulations as he shall prescribe, issue a license to any person not a warehouseman to accept the custody of agricultural products, and to store the same in a warehouse or warehouses owned, operated, or leased by any State, upon condition that such person agree to comply with and abide by the terms of this Act and the rules and regulations prescribed hereunder. Each person so licensed shall issue receipts for the agricultural products placed in his custody, and shall give bond, in accordance with the provisions of this Act, and the rules and regulations hereunder affecting warehousemen licensed under this Act, and shall otherwise be subject to this Act, and such rules and regulations, to the same extent as is provided for warehousemen licensed hereunder.

SEC. 10. That the Secretary of Agriculture, or his designated representative, may charge, assess, and cause to be collected a reasonable fee for every examination or inspection of a warehouse under this Act when such examination or inspection is made upon application of a warehouseman, and for each license issued to a warehouseman or to any person to classify, inspect, grade, sample, and/or weigh agricultural products stored or to be stored under the provisions of this Act, the Secretary of Agriculture, or his designated representative, may charge, assess, and cause to be collected a reasonable fee. All such fees shall be deposited and covered into the Treasury as miscellaneous receipts.

SEC. 11. That the Secretary of Agriculture, or his designated representative, may upon presentation of satisfactory proof of competency, issue to any person

a license to inspect, sample, or classify any agricultural product or products, stored or to be stored in a warehouse licensed under this Act, according to condition, grade, or otherwise and to certificate the condition, grade, or other class thereof, or to weigh the same and certificate the weight thereof, or both to inspect, sample, or classify and weigh the same and to certificate the condition, grade, or other class and the weight thereof, upon condition that such person agree to comply with and abide by the terms of this Act and of the rules and regulations prescribed hereunder so far as the same relate to him.

SEC. 12. That any license issued to any person to inspect, sample, or classify, or to weigh any agricultural product or products under this Act may be suspended or revoked by the Secretary of Agriculture, or his designated representative, whenever he is satisfied, after opportunity afforded to the licensee concerned for a hearing, that such licensee has failed to inspect, sample, or classify, or to weigh any agricultural product or products correctly, or has violated any of the provisions of this Act or of the rules and regulations prescribed hereunder, so far as the same may relate to him, or that he has used his license or allowed it to be used for any improper purpose whatever. Pending investigation, the Secretary of Agriculture, or his designated representative, whenever he deems necessary, may suspend a license temporarily without hearing.

SEC. 13. That every warehouseman conducting a warehouse licensed under this Act shall receive for storage therein, so far as its capacity permits, any agricultural product of the kind customarily stored therein by him which may be tendered to him in a suitable condition for warehousing, in the usual manner in the ordinary and usual course of business, without making any discrimination between persons desiring to avail themselves of warehousing facilities.

SEC. 14. That any person who deposits agricultural products for storage in a warehouse licensed under this Act shall be deemed to have deposited the same subject to the terms of this Act and the rules and regulations prescribed hereunder.

SEC. 15. That any fungible agricultural product stored for interstate or foreign commerce, or in any place under the exclusive jurisdiction of the United States, in a warehouse licensed under this Act shall be inspected and graded by a person duly licensed to grade the same under this Act.

SEC. 16. That every warehouseman conducting a warehouse licensed under this Act shall keep the agricultural products therein of one depositor so far separate from agricultural products of other depositors, and from other agricultural products of the same depositor for which a separate receipt has been issued, as to permit at all times the identification and redelivery of the agricultural products deposited; but if authorized by agreement or by custom, a warehouseman may mingle fungible agricultural products with other agricultural products of the same kind and grade, and shall be severally liable to each depositor for the care and redelivery of his share of such mass, to the same extent and under the same circumstances as if the agricultural products had been kept separate, but he shall at no time while they are in his custody mix fungible agricultural products of different grades.

SEC. 17. That for all agricultural products stored for interstate or foreign commerce, or in any place under the exclusive jurisdiction of the United States, in a warehouse licensed under this Act original receipts shall be issued by the warehouseman conducting the same, but no receipts shall be issued except for agricultural products actually stored in the warehouse at the time of the issuance thereof.

SEC. 18. That every receipt issued for agricultural products stored in a warehouse licensed under this Act shall embody within its written or printed terms (a) the location of the warehouse in which the agricultural products are stored; (b) the date of issue of the receipt; (c) the consecutive number of the receipt; (d) a statement whether the agricultural products received will be delivered to the bearer, to a specified person, or to a specified person or his order; (e) the rate of storage charges; (f) a description of the agricultural products received, showing the quantity thereof, or, in case of agricultural products customarily put up in bales or packages, a description of such bales or packages by marks, numbers, or other means of identification and the weight of such bales or packages; (g) the grade or other class of the agricultural products received and the standard or description in accordance with which such classification has been made: *Provided*, That such grade or other class shall be stated according to the official standard of the United States applicable to such agricultural products

as the same may be fixed and promulgated under authority of law: *Provided further*, That until such official standards of the United States for any agricultural product or products have been fixed and promulgated, the grade or other class thereof may be stated in accordance with any recognized standard or in accordance with such rules and regulations not inconsistent herewith as may be prescribed by the Secretary of Agriculture; (h) a statement that the receipt is issued subject to the United States Warehouse Act and the rules and regulations prescribed thereunder; (i) if the receipt be issued for agricultural products of which the warehouseman is owner, either solely or jointly or in common with others, the fact of such ownership; (j) a statement of the amount of advances made and of liabilities incurred for which the warehouseman claims a lien: *Provided*, That if the precise amount of such advances made or of such liabilities incurred be at the time of the issue of the receipt unknown to the warehouseman or his agent who issues it, a statement of the fact that advances have been made or liabilities incurred and the purpose thereof shall be sufficient; (k) such other terms and conditions within the limitations of this Act as may be required by the Secretary of Agriculture; and (l) the signature of the warehouseman, which may be made by his authorized agent: *Provided*, That unless otherwise required by the law of the State in which the warehouse is located, when requested by a depositor of other than fungible agricultural products, a receipt omitting compliance with subdivision (g) of this section may be issued: *Provided, however*, The Secretary of Agriculture may in his discretion require that such receipt have plainly and conspicuously embodied in its written or printed terms a provision that such receipt is not negotiable.

SEC. 19. That the Secretary of Agriculture is authorized, from time to time, to establish and promulgate standards for agricultural products by which their quality or value may be judged or determined: *Provided*, That the standards for any agricultural products which have been, or which in future may be, established by or under authority of any other Act of Congress shall be, and are hereby, adopted for the purposes of this Act as the official standards of the United States for the agricultural products to which they relate.

SEC. 20. That while an original receipt issued under this Act is outstanding and uncancelled by the warehouseman issuing the same no other or further receipt shall be issued for the agricultural product covered thereby or for any part thereof, except that in the case of a lost or destroyed receipt a new receipt, upon the same terms and subject to the same conditions and bearing on its face the number and date of the receipt in lieu of which it is issued, may be issued upon compliance with the statutes of the United States applicable thereto in places under the exclusive jurisdiction of the United States or upon compliance with the laws of any State applicable thereto in any place not under the exclusive jurisdiction of the United States: *Provided*, That if there be in such case no statute of the United States or law of a State applicable thereto such new receipts may be issued upon the giving of satisfactory security in compliance with the rules and regulations made pursuant to this Act.

SEC. 21. That a warehouseman conducting a warehouse licensed under this Act, in the absence of some lawful excuse, shall, without unnecessary delay, deliver the agricultural products stored therein upon a demand made either by the holder of a receipt for such agricultural products or by the depositor thereof if such demand be accompanied with (a) an offer to satisfy the warehouseman's lien; (b) an offer to surrender the receipt, if negotiable, with such endorsements as would be necessary for the negotiation of the receipts; and (c) a readiness and willingness to sign, when the products are delivered, an acknowledgment that they have been delivered if such signature is requested by the warehouseman.

SEC. 22. That a warehouseman conducting a warehouse licensed under this Act shall plainly cancel upon the face thereof each receipt returned to him upon the delivery by him of the agricultural products for which the receipt was issued.

SEC. 23. That every warehouseman conducting a warehouse licensed under this Act shall keep in a place of safety complete and correct records of all agricultural products stored therein and withdrawn therefrom, of all warehouse receipts issued by him, and of the receipts returned to and canceled by him, shall make reports to the Secretary of Agriculture concerning such warehouse and the condition, contents, operation, and business thereof in such form and at such

times as he may require, and shall conduct said warehouse in all other respects in compliance with this Act and the rules and regulations made hereunder.

SEC. 24. That the Secretary of Agriculture is authorized to cause examinations to be made of any agricultural product stored in any warehouse licensed under this Act. Whenever, after opportunity for hearing is given to the warehouseman conducting such warehouse, it is determined that he is not performing fully the duties imposed on him by this Act and the rules and regulations made hereunder, the Secretary may publish his findings.

SEC. 25. That the Secretary of Agriculture, or his designated representative, may, after opportunity for hearing has been afforded to the licensee concerned, suspend or revoke any license to any warehouseman conducting a warehouse under this Act, for any violation of or failure to comply with any provision of this Act or of the rules and regulations made hereunder, or upon the ground that unreasonable or exorbitant charges have been made for services rendered. Pending investigation, the Secretary of Agriculture, or his designated representative, whenever he deems necessary, may suspend a license temporarily without hearing.

SEC. 26. That the Secretary of Agriculture from time to time may publish the results of any investigations made under Section 3 of this Act; and he shall publish the names and locations of warehouses licensed and bonded and the names and addresses of persons licensed under this Act and lists of all licenses terminated under this Act and the causes therefor.

SEC. 27. That the Secretary of Agriculture is authorized through officials, employees, or agents of the Department of Agriculture designated by him to examine all books, records, papers, and accounts of warehouses licensed under this Act and of the warehousemen conducting such warehouses relating thereto.

SEC. 28. That the Secretary of Agriculture shall from time to time make such rules and regulations as he may deem necessary for the efficient execution of the provisions of this Act.

SEC. 29. That in the discretion of the Secretary of Agriculture he is authorized to cooperate with State officials charged with the enforcement of State laws relating to warehouses, warehousemen, weighers, graders, inspectors, samplers, or classifiers; but the power, jurisdiction, and authority conferred upon the Secretary of Agriculture under this Act shall be exclusive with respect to all persons securing a license hereunder so long as said license remains in effect. This Act shall not be construed so as to limit the operation of any statute of the United States relating to warehouses or to warehousemen, weighers, graders, inspectors, samplers, or classifiers now in force in the District of Columbia or in any Territory or other place under the exclusive jurisdiction of the United States.

SEC. 30. That every person who shall forge, alter, counterfeit, simulate, or falsely represent, or shall without proper authority use, any license issued by the Secretary of Agriculture, or his designated representative, under this Act, or who shall violate or fail to comply with any provision of Section 8 of this Act, or who shall issue or utter a false or fraudulent receipt or certificate, or change in any manner an original receipt or certificate subsequently to issuance by a licensee, or any person who, without lawful authority, shall convert to his own use, or use for purposes of securing a loan, or remove from a licensed warehouse contrary to this Act or the regulations promulgated thereunder, any agricultural products stored or to be stored in such warehouse, and for which licensed receipts have been or are to be issued, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$10,000, or double the value of the products involved if such double value exceeds \$10,000, or imprisoned not more than ten years, or both, in the discretion of the court, and the owner of the agricultural products so converted, used, or removed may, in the discretion of the Secretary of Agriculture, be reimbursed for the value thereof out of any fine collected hereunder, by check drawn on the Treasury at the direction of the Secretary of Agriculture, for the value of such products to the extent that such owner has not otherwise been reimbursed. That any person who shall draw with intent to deceive, a false sample of, or who shall willfully mutilate or falsely represent a sample drawn under this Act, or who shall classify, grade, or weigh fraudulently, any agricultural product stored or to be stored under the provisions of this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof fined not more

than \$500, or imprisoned for more than six months, or both, in the discretion of the court.

SEC. 31. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$50,000, available until expended, for the expenses of carrying into effect the provisions of this Act, including the payment of such rent and the employment of such persons and means as the Secretary of Agriculture may deem necessary in the city of Washington and elsewhere, and he is authorized, in his discretion, to employ qualified persons not regularly in the service of the United States for temporary assistance in carrying out the purposes of this Act, and out of the moneys appropriated by this Act to pay the salaries and expenses thereof.

SEC. 32. That if any clause, sentence, paragraph, or part of this Act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SEC. 33. That the right to amend, alter, or repeal this Act is hereby expressly reserved.

